

**REPORT - PLANNING COMMISSION MEETING  
July 24, 2003**

**Project Name and Number:** Brackett Subdivision (PLN2003-00207)

**Applicant:** Bruce Brackett

**Proposal:** To Consider a Planned Unit Development and Tentative Parcel Map for a two-lot subdivision (with one existing dwelling and one new unit) on a .33-acres parcel of land.

**Recommended Action:** Approve based on findings and subject to conditions.

**Location:** 3686 Lowry Road in the Northern Plain Planning Area

**Assessor Parcel Number(s):** 543-0457-049-00

**Area:** .33 acres

**Owner:** Bruce Brackett

**Agent of Applicant:** N/A

**Consultant(s):** Luzuriaga Taylor, Inc. - Civil Engineer, Kirk Morton Landscape Design & Irrigation – Landscape Architect, Morris Engineering – Structural Engineer.

**Environmental Review:** This project is categorically exempt from CEQA review per Section 15332, In-Fill Development Project.

**Existing General Plan:** Medium Density Residential (6.5 to 10 units per acre)

**Existing Zoning:** R-1-6, Single-Family Residence District

**Existing Land Use:** Existing Single-family dwelling unit

**Public Hearing Notice:** Public hearing notification is applicable. A total of 76 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Champlain Court, Jamie Circle, Lake Superior Court, Lake Garrison, Palomino Common, Lake Mead Drive, and Lowry Road. The notices to owners and occupants were mailed on July 14, 2003. A Public Hearing Notice was delivered to The Argus on July 9, 2003 to be published by July 14, 2003.

**Executive Summary:** The applicant is requesting approval of a Planned Unit Development and Tentative Parcel Map to permit a two-lot residential subdivision at 3686 Lowry Road. Staff recommends that the Planning Commission approve the Planned Unit Development and Tentative Parcel Map to allow the development of one new single-family dwelling unit.

**Background and Previous Actions:** The lands are currently occupied by one single-family dwelling unit, constructed in the mid 1920's. Numerous renovations/additions have taken place over the last few years all of which were designed and planned with the anticipation of these two (PUD & TPM) applications.

**Project Description:** The applicant proposes a Planned Unit Development [PUD-2003-01] for a two (2) lot single-family residential subdivision [Tract 8217] on a .33-acre site.

## Project Analysis:

- **General Plan/Zoning Conformance:** The General Plan land use designation for the project site is Medium Density Residential of 6.5 to 10 dwelling unit per acre. The R-1-6 Zoning District requires a minimum lot size of 6,000 square feet per lot. Pursuant to *Principle No. 1* of the Development Policy for Planned Unit Developments, the “Density for planned unit developments is computed by dividing the net area of the parcel (exclusive of any present or required dedicated perimeter streets right-of-way) by the lot area requirement for the zoning district which applies to the project”. Based upon this density calculation, the site has the following development potential:

$$\text{PUD Density} = \frac{\text{Net parcel area}}{\text{Lot area required}} = \frac{10,245 \text{ sq.ft.}}{6,000 \text{ sq.ft.}} = 1.7 \text{ dwelling units}$$

Therefore, the proposed density of two residential lots is consistent with the proposed PUD development density, and is in conformance with the existing General Plan land use designation for the site and Policy LU 1.9, which indicates that “when the density results in a fraction of a unit equating to 0.50 or more, the minimum density shall be rounded up to the next whole number”.

**Size and Setback Standards:** Both of the proposed lots will be below the 6,000 square-foot minimum lot area provision as outlined in the R-1-6 Zoning District. This is due to the large amount of land dedication (over 30% of existing land area) that will be conveyed to the City for right-of-way improvements. The proposed lot sizes are as follows:

Lot One: 4,878 square feet  
Lot Two: 5,367 square feet

The following analysis outlines the current main building R-1-6 Zoning District Standards and the setback provisions proposed for the existing and new dwelling unit through this PUD-2003-01. The requirements/provisions are as follows:

Zone Provisions	R-1-6	PUD-2003-01	
		Existing Lot	Proposed Lot
Front Yard	6,000 sq. ft. 20 ft.	4,878 sq. ft. 4 ft.	5,367 sq. ft. 20 ft.
Interior Side Yard			
One Story	5 ft. (12 ft. total)	3 ft. (15 ft. total)	N/A
Two Story	6 ft. (15 ft. total)	N/A	6 ft. (15 ft. total)
Rear Yard	25 ft.	16.5 ft.	14.5 ft.

All other yard requirements and setbacks not specifically modified by PUD-2003-1, shall be governed by the provisions of the R-1-6 Zoning District.

**Planned Unit Development Justification:** As outlined above the existing dwelling located on Lot 1 does not comply with any of the current R-1-6 provisions since it was built in the mid 1920's. The subdivision of the parcel would not further impact any yard requirements with the exception of reducing the lot area to 4,878 sq. ft. This Planned Unit Development would recognize the setbacks, which currently exist for the dwelling and would not allow any further encroachment without a future amendment to PUD-2003-01. Parcel 2 would comply with the current Zoning Ordinance provisions for front and side yard setback requirements but would not meet the minimum lot area and rear yard requirements as prescribed within the R-1-6 district. It should be noted that the rear yard setback of 14.5 feet has been taken from the “breakfast nook” which projects out past the main portion of the rear elevation. The remaining setback ranges from 17.5 feet to 20 feet (Exhibit “A”).

The applicant states that although the proposed lot areas for both lots are below the minimum required by the current zoning designation (R-1-6), this is due to the requirement to dedicate a portion of land to the City. The total amount of land to be dedicated is over 4,245 square feet, or over 30% of the current property. This dedication will allow the improvements (increased asphalt width, sidewalk, etc) along Lowry Avenue to be completed and provide for a “finished” look, which will benefit the surrounding neighborhood.

Accordingly, a Planned Unit Development application is being processed with a subdivision map in order to validate divergence from the Zoning Ordinance standards. Pursuant to Development Policy for Planned Unit Development, adopted by City Council Resolution No. 5114, September 21, 1982. The Development Policy allows use of a PUD to provide "a more desirable living environment than would be possible through the strict application of ordinance requirements" [*Objective No. 1* of the development Policy], if it can be demonstrated that in conformance with *Principle No. 1*.

**Land Use Compatibility:** Staff has concluded in the review of this application that the implementation of the proposed Planned Unit Development and Tentative Tract Map will have a beneficial effect which would not be achieved if the site were developed under standard zoning. The beneficial effect results from the better utilization of this site, which is consistent with the City's General Plan policy of maximizing in-fill sites to provide additional housing, as well as from the design of this project which will assure high quality and a well designed housing within the City [General Plan Land Use Policy, Goal H2].

The proposed project will be developed in conformance with the existing General Plan, and all conditions of approval by the Planning Commission in its review of the Planned Unit Development and the Tentative Tract Map application. The building design created in conformance with the PUD design guidelines will complement and enhance the existing single-family residential neighborhood. The project, will be consistent with the existing nearby land uses, and is not anticipated to create an adverse impact on either the surrounding residential area, nor be incompatible with any of the adjacent uses.

#### **Design Analysis:**

- **Architecture:** In determining the proper architecture for the house the applicant took four (4) major considerations into account. The first was the homeowners desire for a timeless design in classical architectural proportions. The second factor was the existing homes in the surrounding area. Thirdly, the City of Fremont's Small Lot Single-Family Design Guidelines were used to make sure the house would follow the City guidelines as much as possible. Finally, the design had to take into account the dimensions of the new lot, which is wide but not very deep – the opposite of most new development.

After each of these factors was analyzed, the proper home style was determined by the applicant to be that of a colonial revival style. The house is wide but not deep, to maintain adequate setbacks. It fits in with the surrounding neighborhood in its use of siding, as it's main façade material. Stone is proposed at the setback garage portion to add character and draw the eye away from the garage door. A large porch entry was used to add some visual dimension to the home, as well as tying the public space to the private space for a sense of community.

The homes color scheme comes from the Kelly-Moore, historical color collection. The base color of the siding is Cobblestone, which has a buff color base. This will fit in well with the surrounding neighborhood. The door and window trim is Dark Olive, with shutters in a Burgundy tone. The remainder of the details; including the columns, corner trims, the frieze and dentils, the trellis above the garage entry, and the facials will be white; a classic treatment of these elements. The white frieze of the porch, and the white trellis will tie in directly with a white belly band that will divide the upper and lower sections of the house to reduce the effect of tall wall sections. The stone at the setback garage portion will be Chardonnay Limestone by Cultured Stone. This is a gray-based stone similar to many in the surrounding neighborhood. This treatment will also be used to wrap the base of the entry porch as well to tie the sections together.

The exterior trim will be in conformity with classical, colonial revival homes. The applicant has included dentils, a tall frieze, true working shutters with cast hardware, along with classic door and window trim. The proportions of all architecture are in the classic style. A pediment has been added to the center above the porch entry to give vertical interest as well as to highlight the homes entry location. The garage door will be a martin door, which gives the illusion of a carriage doors. With large faux iron hinges and handles.

**Grading & Drainage:** This is an infill project. Grading of the site will conform to the surrounding development. Runoff of surface drainage will be to the public street and existing public storm drainage system in Lowry Road.

**Urban Runoff Clean Water Program:** The applicant will be required to conform to the City's Urban Runoff Clean Water Program requirements. Conditions of approval are included to reflect this requirement.

**Applicable Fees:**

**Development Impact Fees:** The new dwelling unit within this project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, capital facilities and traffic impact. Residential projects will also be subject to park facilities and park dedication in-lieu fees. These fees shall be calculated at the fee rates in effect at the time of building permit issuance.

**Environmental Analysis:** This project has been determined to be exempt from environmental review pursuant to guidelines of the California Environmental Quality Act section 15332, In-Fill Development Project.

**Response from Agencies and Organizations:** Based on comments provided by several public agencies, appropriate conditions have been added to the project.

**Neighborhood Comments/concerns:** No neighborhood comments or concerns were expressed to staff as of the submission of this report.

**Enclosures:** Exhibit "A" (Site Plan)  
Exhibit "B" (Tentative Tract Map 8217)  
Exhibit "C" (Landscape Plan)  
Exhibit "D" (Elevation)  
Exhibit "E" (Findings and Conditions of approval for PUD2003-01)  
Exhibit "F" (Findings and Conditions of approval for TR8217)

**Exhibits:** Exhibit "A" "Site Plan"  
Exhibit "B" "Tentative Tract map 8217"  
Exhibit "C" "Landscape Plan"  
Exhibit "D" "Elevations"  
Exhibit "E" "Findings and Conditions of approval for PUD2003-01"  
Exhibit "F" "Findings and Conditions of approval for TR8217"  
Exhibit "G" "Color and Material Sample Board"

**Recommended Actions:**

1. Hold public hearing.
2. Find the project categorically exempt from California Environmental Quality Act per Section 15332, In-Fill Development Project.
3. Find PUD2003-01 and Tentative Tract Map 8217 are in conformance with the relevant provisions contained in the City's existing General Plan.
4. Find PUD-2003-01 (as shown on Exhibit "A"), and Tentative Tract Map 8217 (as shown on Exhibit "B"); fulfill the applicable requirements set forth in the Fremont Municipal Code.
5. Approve PUD-2003-01 in conformance with Exhibit "A" and Exhibit "D", based upon the findings and subject to the conditions of approval set forth in Exhibit "E".
6. Approve Tentative Tract Map 8217 in conformance with Exhibit "B", based upon the findings and subject to the conditions of approval set forth in Exhibit "F".

**EXHIBIT "E"**  
**BRACKETT SUBDIVISION (PUD-2003-01)**  
**FINDINGS AND CONDITIONS OF APPROVAL**

**FINDINGS**

The findings below are made on the basis of information contained in the staff report to Planning Commission dated July 24, 2003, incorporated hereby.

1. That the proponents of the planned unit development have demonstrated that the project can be substantially completed within four years of the date of approval, because the applicant has stated the desire to proceed with development construction plans as soon as possible for the proposed new dwelling unit.
2. That the proposed planned unit development conforms to the general plan in terms of location and standards of development, because the development as proposed conforms to the PUD net density for the project site, and is in accordance with the Development Policy for Planned Unit Developments.
3. That the streets and arterials proposed are suitable and adequate to carry anticipated traffic, because the right-of-way improvements abutting Lowry Road will conform to appropriate designs approved and set forth by the City of Fremont.
4. That the proposed use and increased density will not generate traffic in such amounts as to overload the street network outside the project area, because the project is not an increase of the PUD density allowed for the site, and the payment of traffic Impact Fees will contribute monies toward future roadway improvements which have been identified as being necessary to accommodate the future build-out of the City.
5. That the existing or proposed utility services are adequate for the uses and for the population density proposed. None of the responsible utility companies have stated they will be unable to adequately serve the in-fill site.

**CONDITIONS**

1. The project shall conform to Exhibit "A" (Site Plan), Exhibit "D" (Elevations) and Exhibit "G" (Color Sample Board) and all conditions of approval set forth herein. The project shall also conform to all conditions of approval for Tentative Tract Map 8217.
2. The building setbacks for the dwellings shall conform to the requirements of the PUD-2003-01 as set forth below:

<b>Zone Provisions</b>	<b>Existing Lot</b>	<b>Proposed Lot</b>
Lot Area	4,878 sq. ft.	5,367 sq. ft.
Front Yard	4 ft.	20 ft.
Interior Yard		
One Story	3 ft. (15 ft. total)	N/A
Two Story	N/A	6 ft. (15 ft. total)
Rear Yard	16.5 ft.	14.5 ft.

3. Yard requirements and setbacks not specifically modified by PUD-2003-01, shall be governed by the provisions of the Fremont Municipal Code.
4. Plans for the proposed dwelling unit to be locate on Parcel 2 shall be submitted to the **Development Organization** for Site Plan and Architectural Approval to insure conformance with the architectural as approved by the Planning Commission and compliance with all other City codes and polices.

5. The colors and materials shall be as represented on the materials and color sample board (Exhibit "G"). Any requested change to the approved materials and colors shall be submitted for review and approval. Material samples and colors shall be submitted with a written description of the requested change.
6. The location of the building and driveway shall be provided as shown on Exhibit "A". Landscaping and walkways shall generally be provided in the amounts and locations as shown on Exhibit "C", provided, however, that minor modifications to the location and design of the guiding, landscaping and other elements of the above exhibit may be allowed, subject to review and approval of the Assistant City Manager, if such modifications are in keeping with the layout and architectural design of the residence, and in keeping with the intent of PUD-2003-01.
7. Minor revisions to floor plans and elevations may be permitted, subject to the approval of the Assistant City Manager.
8. The project will be subject to City-wide development Impact fees. These fees may include but not be limited to fire protection, park facilities, parkland in lieu, capital facilities and traffic impact fees. These fees shall be calculated at the fee rates in effect at the time of building permit issuance.
9. The landscaping as proposed on Exhibit "C" shall be completed prior to occupancy of the new dwelling unit.
10. The front door of the existing house shall be reoriented to the side of the house as identified on Exhibit "A" prior to occupancy of the new house.

#### **During Construction**

11. The applicant shall be responsible for litter control and sweeping of all paved surfaces. All on-site drains shall be cleaned immediately before the start of the rainy season beginning on October 15 of each year, subject to the review and approval of the Building/Public Works Inspectors.
12. Any vehicle or equipment washing/steam cleaning shall be done at an appropriately equipped facility, which drains to the sanitary sewer. Outdoor washing shall be managed in such a way that there is no discharge of soaps, solvents, cleaning agents or other pollutants to the storm drains. Wash water shall discharge to the sanitary sewer, subject to review and approval of the Union Sanitary District.
11. Construction activities shall be limited to the following hours of operation:
  - 7:00 a.m. to 7:00 p.m. Monday through Friday
  - 9:00 a.m. to 6:00 p.m. Saturday
  - No construction shall be permitted on Sunday.
  - Failure to comply with the above-described hours of operation will result in
  - Withholding of inspection.

**EXHIBIT "F"**  
**Bracket Subdivision**  
**TENTATIVE PARCEL MAP 8217 (TPM-8217)**

**FINDINGS**

The findings below are made on the basis of information contained in the staff report to the Planning Commission dated July 24, 2003, incorporated hereby.

1. The proposed map satisfies the requirements and conditions imposed by the Subdivision Map Act and the City of Fremont Subdivision Ordinance because the procedural requirements of the Map Act are being followed and the proposed lots conform to the standards set forth in the Subdivision Ordinance.
2. The proposed subdivision, together with the provisions of its design and improvement, is consistent with the General Plan and any applicable specific plans since the proposed lot configuration is in conformance with the Medium Density Residential requirements of the General Plan.
3. The site is physically suitable for the type and proposed density of the development, because it is consistent with the General Plan and zoning designation of the site.
4. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because of the design and location of the development.
5. The design of the subdivision and the type of improvements are not likely to cause serious public health problems, since the review process of the subdivision has taken those concerns into consideration and has found the proposal in conformance with the City of Fremont's policies.
6. The design of the subdivision and the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision. Acquisition of any new easements is required prior to final parcel map approval.
7. Alternative easements for public access through or use of property within the subdivision are substantially equivalent to ones previously acquired by the public.

**CONDITIONS:**

1. Conformance with staff amended Exhibit "B", attached hereto and made a part hereof.
2. This Tentative Parcel Map (TPM) is being conditionally approved based on the accuracy of the information shown on Exhibit "B" and submitted with the TPM application. If any of the information is shown to be inaccurate subsequent to approval of the TPM by the City, such inaccuracy may be cause for invalidating this approval.
3. Approval of PUD-2003-01 must be accomplished prior to approval of the final parcel map.
4. Only one final Parcel Map is allowed to accomplish the lot splits proposed by this Tentative Parcel Map. All development of the site shall be in conformance with Planned District PUD-2003-01.
5. Site grading and drainage is subject to the approval of the Development Organization Engineer at the time of building permit issuance. Site grading must not obstruct natural flow from abutting properties or divert drainage from its natural watershed. The drainage area map developed for the drainage design for this project shall be based on the original drainage area map developed for the existing storm drain system and shall clearly indicate all areas tributary to the project site.

6. Pursuant to FMC Section 8-1523, the record owner(s) are to dedicate the required street right-of-way and public easements as shown on the Exhibit "B". Any additional easements required by the various public utilities and public agencies shall be dedicated prior to final parcel map approval.
7. Pursuant to FMC Section 8-1522 and 8-3107, the subdivider is to improve or agree to improve the Lowry Road frontage of the parcel map within one year of final parcel map approval. No permanent improvement work is to commence until improvement plans and profiles have been approved by the City Engineer. Improvements are to be installed to permanent line and grade in accordance with the City's subdivision improvement standards and to the satisfaction of the City Engineer. The minimum improvements which the subdivider is normally required to construct or agree to construct prior to acceptance and approval of the final parcel map by the City are as set forth in FMC Section 8-1522. Improvements to be constructed include:
  - Curb and gutter
  - Sidewalk
  - Driveways
  - Street paving
  - Storm drainage facilities
  - Street Trees
8. Pursuant to FMC Section 6-3104.5(h), this project is exempt from the requirements of the City of Fremont Underground Ordinance.
9. Utility service connections, including electrical and communications, shall be installed underground.
10. Review of the tentative map by the Fire Department relative to local and State Fire Code is based on the material submitted. Therefore, if the map is revised prior to final submittal, the Fire Marshal should be contacted so that any changes may be properly reviewed and evaluated. The on-site and/or off-site fire hydrants were required, as per tentative parcel map annotations, in accordance with Fremont Fire Code Article No. 13.
11. The subdivider is required to provide a cash payment to the City of Fremont for microfilming the recorded parcel map and "Record" improvement plans. The subdivider is also required by ordinance to provide the City with a mylar copy of the recorded parcel map subsequent to it's recordation, and to provide a mylar copy of the "Record" improvement plans prior to acceptance of the improvements by City Council.
12. In accordance with Section 8-1314(d)(1) of the City's Subdivision Ordinance, the Director of Development and Environmental Services has determined that the division and development of the property in the manner set forth on conditionally approved Tentative Parcel Map 8217 will not unreasonably interfere with the free and complete exercise of the existing P.G. & E. easements located within the parcel map boundary. The signatures of P.G. & E. may, therefore, be omitted from the final parcel map.

Subject to this determination, the subdivider is required to send, by certified mail, a sketch of the proposed parcel map, together with a copy of said Section 8-1314(d)(1), to P.G. & E.. If any object to either (1) recording the final map without it's signature; or (2) the determination made above, it shall so notify the subdivider and the Director of Development and Environmental Services within thirty (30) days after receipt of the materials from the subdivider. Objections to the above determination or to the waiver of signature rights by P.G. & E. shall be treated in the manner set forth in Section 8-1314(d)(1).
13. The development of the one additional single-family dwelling will be subject to City-wide Development Impact Fees. These fees may include fees for fire protection, capital facilities, park land dedication in lieu, park facilities, and traffic impact. The fees shall be calculated at the rate in effect at the time of building permit issuance. The fees will be collected prior to building permit approval.

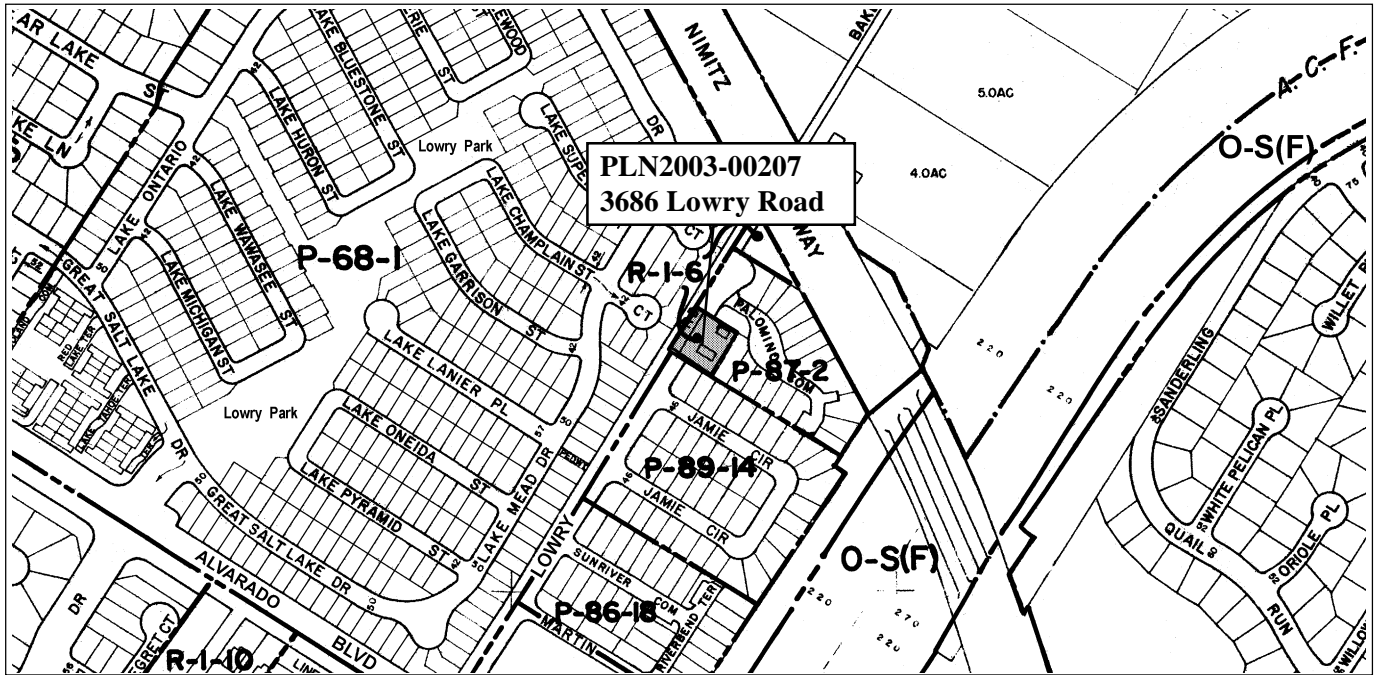


14. In accordance with Section 66474.9(b) of the Subdivision Map Act, the subdivider shall indemnify and hold harmless the City of Fremont or its agents, officers, or employees from any claim, action, or proceeding against the City of Fremont or its agents, officers, or employees to attack, set aside, void, or annul an approval of the City of Fremont, advisory agency appeal board, or legislative body concerning a subdivision, which action is brought within the time period provided for in Section 66499.37.
15. The City of Fremont shall promptly notify the subdivider of any claim, action, or proceeding to attack, set aside, void or annul its approval and shall cooperate fully in the defense.

**SUBDIVIDER PLEASE NOTE :**

The fees, dedications, reservations and/or other exactions imposed on this project are those listed in the foregoing conditions of tentative parcel map approval. Any fee, dedication, reservation or other exaction is deemed imposed on the date of this tentative parcel map approval. The subdivider is hereby notified that the 90-day period in which the subdivider may protest these fees, dedications, reservations and other exactions pursuant to Government Code Section 66020(a) begins on the date they are imposed. If the subdivider fails to file a protest within this 90-day period complying with all the requirements of Government Code Section 66020, the subdivider will be legally barred from later challenging such actions. The subject property is located in a Geologic Hazard Zone for Liquefaction according to maps prepared by the California Geological Survey. In accordance with the Seismic Hazard Mapping Act, the subdivider shall prepare, and the City approve, a geotechnical report studying the site and mitigating any potential seismic hazards. Approval of the geological report by the City shall be required prior to issuance of a building permit.

# INFORMATIONAL



Existing Zoning



Existing General Plan

**Project Number:**

PLN2003-00207 (PUD, TPM)

**Project Name:**

Brackett Subdivision

**Project Description:**

To consider a Planned Unit Development and Tentative Parcel Map for a two-lot single-family residential subdivision (with one existing dwelling and one new unit) on a 0.33 acre lot located in the Northern Plain Planning area. This project is categorically exempt from CEQA review per section 15332. In fill Development Projects.



**Note:** Prior arrangements for access are not required for this site.

